

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

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CLERK-ALBUQUERQUE

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. CR 05-1849 JH

DANA JARVIS, et al.,

Defendants.

**DEFENDANTS' UNOPPOSED JOINT MOTION TO CONTINUE THE DEADLINE
TO SUBMIT PRE-TRIAL MOTIONS**

COMES NOW the Defendants Dana Jarvis, Mary Cannant, Barbara Hanna, Ayla Jarvis, Mike Hannah, Cathy Fitzgerald, Geno Berthod, Sam Jones, Adrian Sanford, Ralph Greene, George Ripley, Russell Trujillo, and Matthew Hottan, through counsel below signed, and by and through counsel of record Scott M. Davidson, who has been appointed as counsel for all defendants for purposes of specified pre-trial motions, including a motion to suppress intercepted wire communications, and pursuant to the Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution to respectfully request that this Honorable Court extend the deadline for filing Pre-Trial Motions from March 6, 2006 through June 16, 2006.

In support of this Unopposed Joint Motion, counsel for the Joint Defendants state:

1. Despite a discovery deadline of November 18, 2005, approximately 8000 pages of additional discovery was produced by the Government on or about January 12, 2006, approximately 8 weeks after the discovery deadline had passed. The Defendants have forwarded this additional discovery to the database expert appointed by the Court to assist with the voluminous discovery in this case. The additional discovery has been incorporated into the discovery database and is

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currently being reviewed by defendants' counsel. The March 6, 2006, deadline for pre-trial motions was set on the assumption that all discovery would be produced by November 18, 2005.

2. The volume of discovery is approximately double the volume anticipated when the March 6, 2006 deadline was set. The discovery to date totals approximately 26,000 pages. When pleadings and wiretap transcripts are added, the number of pages that must be carefully reviewed by counsel approximates 44,000 pages.

3. The wiretap expert appointed by the Court to assist counsel with preparation of a motion to suppress intercepted wire communications has suffered a serious accident. Ms. Doucette has informed counsel that on February 19, 2006, in Tucson, Arizona, she was knocked unconscious in a household accident, suffered a concussion, and will require extensive medical attention. Consequently, she will be unable to assist as requested until approximately April 1, 2006. On or about April 1, 2006, Ms. Doucette expects to be ready to assist defense counsel, as appointed to do by this Court.

4. The lead defendant, Dana Jarvis, has changed counsel. Judith Rosenstein is no longer counsel of record for Mr. Jarvis, and Joe M. Romero, Jr., has been appointed to represent Mr. Jarvis. This appointment occurred January 20, 2006. Mr. Romero requires additional time to review discovery before the filing of motions.

5. The budget for CJA counsel was not filed in this Court until December 27, 2005. The discovery manager was unable to commence necessary database work until this approval date. The delay significantly restricted counsel's ability to review the voluminous documents.

6. The large volume of intercepted wire communications produced in discovery is currently being transcribed. As the transcripts are completed, they are forwarded to the Court-appointed database expert, who incorporates them into the database and then forwards them to

counsel for review and analysis. Completion of the task of transcribing the intercepted wire communications will not be completed until mid-April. Defense counsel estimate they will receive the completed transcripts of intercepted wire communications on or about May 1, 2006. The transcripts are essential to the preparation of substantive motions.

7. Despite the application of diligence to the representation of the Defendants, counsel will be unable to meet the motions deadline of March 6, 2006. Counsel will require approximately 45 days from the completed discovery database to review the discovery, carefully analyze it, consult with the Defendants, and prepare motions for submission to the Court. Accordingly, Counsel request an enlargement of time within which to complete pre-trial motions through June 16, 2006, which is approximately forty-five days from May 1, 2006.

8. The decision to grant or deny a continuance rests in the sound discretion of the District Court. *United States v. Gonzales-Palma*, 645 F.2d 844, 846 (10th Cir. 1981).

9. Assistant United States Attorney James Braun has been informed of this request to continue the deadline for filing pre-trial motions. Mr. Braun does not oppose the request for a continuance.

10. Retained counsel concur in this motion, and may independently join in it.

11. The Court has declared this case complex.

11. Pursuant to 18 U.S.C. § 3161(h)(1)(F) and (J), the Defendants contend that the ends of justice will be served by granting the requested continuance and the need for a continuance to permit the Defendants to adequately prepare pre-trial motions outweighs the rights of both the Defendants and the public to a speedy trial.

WHEREFORE, for all of the foregoing reasons, the Defendants respectfully request that the Court continue the time for filing motions pursuant to Rule 12(b)(3), Fed. R. Crim. P., to June 16.

2006. It is further requested that the Court order that the Government's response(s) to such motions be filed on or before August 4, 2006, and that a single reply to each government response be filed on behalf of the filing defendant and any joining defendants on or before August 18, 2006.

Respectfully Submitted,

By: 

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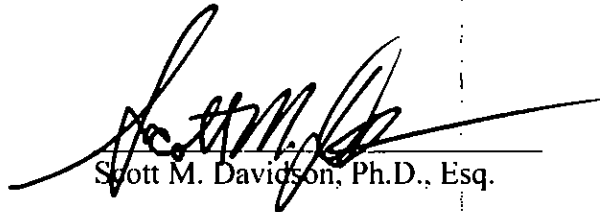
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CERTIFICATE OF SERVICE

I hereby certify that on this 3rd of March, 2006, I served a true and correct copy of this Defendant's Unopposed Joint Motion to Continue the Deadline to Submit Pre-Trial Motions by U.S. mail, postage prepaid, on counsel for the United States at the address listed below:

James R.W. Braun, Esq.
Assistant United States Attorney
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